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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,336	11/19/2001	Takaya Nonomura	042206	8557

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WASHINGTON, DC 20036

EXAMINER
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CHOWDHURY, SUMAIYA A

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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12/07/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 09/988,336	Applicant(s) NONOMURA, TAKAYA	
	Examiner Sumaiya A. Chowdhury	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 26-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/17/07 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 26-40 have been considered but are moot in view of the new ground(s) of rejection.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 26-32, 34, 36-37, 38-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Thibadeau (5565909).

As for claim 26, Thibadeau teaches a digital broadcast receiving device, comprising:

receiving means (set-top unit) for receiving a digital broadcasting signal that carries data representing advertising information and geographical area information for the advertising information – (The signal that the receiver receives includes a message/commercial and includes a location designation (geographical area information). – col. 14, lines 28-57, col. 10, lines 25-34);

means (processor) for providing position data representing the position of the digital broadcast receiving device in response to reception by the device of a transmission signal from a transmitter – (The processor has a stored location selection which can default to a selection based on the location of the receiver. – col. 14, lines 28-57); and

selection means for selecting, in accordance with the position data and the geographical area information, advertising information received by the receiving means to be supplied to an output means (If there is a match between the geographical area information and the location of the set-top unit, the message is considered to be “interesting”, and is then stored for later retrieval – col. 14, lines 28-57).

As for claim 27, Thibadeau teaches a digital broadcast receiving device according to claim 26, wherein the device is arranged to receive a transmission signal with a Global Positioning System receiving circuit (col. 20, lines 61-67).

As for claim 28, Thibadeau teaches a digital broadcast receiving device according to claim 26 or claim 27, wherein the device is arranged to receive a transmission signal with a beacon receiving circuit – col. 20, lines 29-33.

As for claim 29, Thibadeau teaches a digital broadcast receiving device according to claim 26, further comprising a memory for storing advertising information – (col. 13, lines 34-40, col. 14, lines 42-55).

As for claim 30, Thibadeau teaches a digital broadcast receiving device according to claim 29, wherein the device has a mode of operation in which the advertising information selected by the selecting means is stored in the memory information – (col. 13, lines 34-40, col. 14, lines 42-55).

As for claim 31, Thibadeau teaches a digital broadcast receiving device according to claim 29 or claim 30, in which the memory is also for storing geographical area information and wherein the device has a mode of operation in which the selection means is arranged to select advertising information stored in the memory – col. 14, lines 50-55.

As for claim 32, Thibadeau teaches a digital broadcast receiving device according to claim 26, further comprising message output means for outputting a message indicating the existence of advertising information selected by the selecting

means – col. 14, lines 45-57.

As for claim 34, Thibadeau teaches a digital broadcast receiving device according to claim 32, wherein the message output means comprises an on-screen display means – col. 14, lines 42-46.

As for claim 36, Thibadeau teaches a digital broadcast receiving device according to claim 26, which is arranged to supply the selected advertising information to the output means in response to the reception of a timing signal (Severe weather warning has higher priority to be displayed - col. 11, line 60-col. 12, lines 2).

As for claim 37, Thibadeau teaches a digital broadcast receiving device according to claim 26, which is arranged to supply the selected advertising information to the output means at a predetermined timing - col. 11, line 60-col. 12, lines 2.

As for claim 39, Thibadeau teaches a digital broadcast receiving device according to claim 26, having a mode of operation in which the advertising information selected by the selection means is supplied to the output means simultaneously with its selection (col. 13, lines 36-40, col. 14, lines 44-58).

As for claim 40, Thibadeau teaches a digital broadcast receiving device according to claim 26, further comprising output means for outputting at least one of video and audio – col. 7, lines 48-51.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thibadeau in view of Reams (5907793).

As for claim 33, Thibadeau fails to teach a digital broadcast receiving device according to claim 32, wherein the message output means comprises a speech synthesis circuit.

In an analogous art, Reams teaches message output means comprises a speech synthesis circuit – col. 9, lines 1-10.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Thibadeau's invention to include the abovementioned limitation, as taught by Reams, for the advantage of generating audible information thereby alerting the user of a received message.

7. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thibadeau in view of Banker (5317391)

As for claim 35, Thibadeau fails to teach a digital broadcast receiving device message output means comprises a light emitting diode.

In an analogous art, Banker teaches when the user receives a message, the LED blinks on and off to indicate availability of content - col. 9, lines 7-28.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Thibadeau's invention to include the above mentioned limitations, as taught by Banker, for the advantage of indicating availability of content to the user.

8. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thibadeau in view of Zigmond.

As for claim 38, Thibadeau teaches:

program providing means for providing program information to be supplied to the output means – col. 14, lines 43-55;

However, Thibadeau fails to teach:



means for judging whether information currently being provided by the program providing means is a commercial appended to a program, the device being arranged to supply the selected advertising information to the output means if it is so judged.

In an analogous art, Zigmond teaches determining whether a commercial is appended to a program by detecting a triggering event (black screen). When it is determined that a commercial is indeed appended to a program, the video switch 68 replaces the commercial with a selected commercial (col. 8, lines 30-65). The commercial selected is selected based on the geographical location of the subscriber (col. 14, lines 48-54). Referring to col. 10, lines 47-58, Zigmond teaches viewer demographic data (i.e. city, neighborhood, or the street address of the household) is stored at the receiver. Referring to col. 11, lines 30-53, Zigmond teaches ad selection criteria which is predefined by the headend, includes advertisement parameters associated with particular advertisements. The advertisement parameters include codes that identify the subject matter of the advertisement, or other mechanisms for characterizing the advertisement so that the advertisement may be displayed to an appropriate segment of the viewing population.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Thibadeau's invention to include the above mentioned limitation, as taught by Zigmond, in order to efficiently target desired viewers of particular advertisements.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sumaiya A. Chowdhury whose telephone number is (571) 272-8567. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SAC

  
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